



Benefit Change Notice Guidelines

Issues Paper

February 2018

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1. Overview

The Australian Energy Regulator

The Australian Energy Regulator (**AER**) is the independent, Australian Government agency responsible for the regulation of wholesale and retail energy markets, and energy networks, under national energy legislation and rules. We work to make all Australian energy consumers better off, now and in the future.

We protect the interests of household and small business consumers by enforcing the National Energy Retail Law (**Retail Law**) in New South Wales, South Australia, Tasmania, the ACT and Queensland. We do not set the prices consumers pay. We monitor and report on the conduct of market participants and the effectiveness of competition.

Purpose of this consultation

We are currently developing Benefit Change Notice Guidelines (**the Guidelines**) in accordance with rules 48A and 48B of the National Energy Retail Rules (**Retail Rules**), which require retailers to notify small electricity and gas customers when benefits provided to them for a minimum or fixed period in their retail contracts are ending or changing and require us to prepare Guidelines covering how retailers are to notify their customers.¹

To assist us in developing the Guidelines, we would value input from stakeholders on a number of key issues we consider the rules raise. We are interested in hearing stakeholder views and supporting evidence on what information should be included in the notice and how it should be presented.

Information received in response to this issues paper will inform our approach to developing the Guidelines, and assist in our understanding of stakeholder views regarding the efficacy and implementation of any notice requirements we prescribe.

How to respond

We would like to hear your views on the issues raised in this document. We would especially welcome responses to the specific questions in **Section 3**.

We are flexible in how you provide your comments and feedback to the issues raised in this paper.

If providing a written submission, please email your response to AERInquiry@ aer.gov.au marked 'Attention: Michelle Looi, Assistant Director, Retail Markets Branch' by **23 March 2018**.

If you would like to provide your views through other means than a written submission, please contact us at AERInquiry@ aer.gov.au to set up a time prior to **16 March 2018** to discuss your views, or make other arrangements.

For any email correspondence, please use the subject line '*Benefit Change Notice Guidelines issues paper*'.

¹ Rule 48A and 48B of the Retail Rules

Publishing of submissions

We prefer that all submissions be publicly available to facilitate an informed and transparent consultative process. Unless marked confidential, all responses will be published on our website, www.aer.gov.au. If you wish to submit confidential information you should:

- clearly identify the information that is the subject of the confidentiality claim
- provide a non-confidential version of the submission in a form suitable for publication.

For further information regarding our use and disclosure of information provided to us, see the [ACCC/AER information policy \(July 2014\)](#), which is available on our website.

We will publish a summary of submissions alongside the draft Guidelines.

If you have any questions on this issues paper or about providing submissions, please send an email to: [AERInquiry@aer.gov.au](mailto:AERInquiry@ aer.gov.au) with the subject line *Benefit Change Notice Guidelines issues paper* '.

2. Background and context

In August 2017, the Prime Minister convened roundtable meetings with the CEOs of eight energy retailers.² At those meetings, the retailers made a number of commitments aimed at improving customers' experience of the retail energy market. This included agreeing to support activities that would facilitate easier comparison of energy plans, increase customer engagement and ensure that disengaged customers are not unfairly penalised. Another specific commitment was to support a rule change request that would require retailers to notify customers when their benefit period is ending, including advising them of the dollar impact of taking no action.

The Australian Government, through the Minister for the Environment and Energy, submitted a rule change request to the Australian Energy Market Commission (**AEMC**) in August 2017. The proposed rule required retailers to notify small customers when fixed term benefits (such as price discounts) are ending or changing.³

The aim of the proposal was to reduce the number of customers remaining on market retail contracts with expired or diminished benefits by:

- advising the customer the benefit has changed or expired
- prompting them to research available plans and
- encouraging customers to switch to another plan if appropriate.

After consideration of the proposed rule, the AEMC made new preferred rules 48A and 48B in the Retail Rules, which specify that we must publish Guidelines regarding how the notice needs to be presented and the information that retailers must include in the notice.⁴

The new rules' key requirements apply to retailers with small customers on market retail contracts for electricity or gas where the contract provides a benefit to the customer (such as a price discount) for a minimum period or fixed period that is less than the duration of the contract. The rule requires retailers to send a notice to customers on such contracts 20-40 business days before their benefit changes.

Behavioural insights research

We are procuring behavioural insights research to help determine what information should be included in the notice to effectively prompt customers to consider their options when their benefit expires or changes.

In the final rule, the AEMC granted us discretion over the content and presentation of the notice, in part to reflect best practice in behavioural economics.⁵ We intend to test the following key elements of the notice from a consumer behaviour perspective:

- if additional dollar figure amounts should be included in the notice, and what figures most resonate with customers

² The eight energy retailers are AGL Energy, Alinta Energy, EnergyAustralia, Momentum Energy, Origin Energy, Simply Energy and Snowy Hydro Limited (Lumo Energy and Red Energy).

³ The Australian Government's rule change proposal can be accessed at: <http://www.aemc.gov.au/getattachment/4cb096d8-b6e9-4402-9f6a-914e13ffb8fd/Rule-change-request.aspx>

⁴ More information regarding the rule change process as well as the AEMC's final determination can be accessed here: <http://www.aemc.gov.au/Rule-Changes/Notification-of-end-of-fixed-benefit-period>

⁵ AEMC, Rule Determination, National Energy Retail Amendment (Notification of the end of a fixed benefit period) Rule 2017, 7 November 2017, page 25, <http://aemc.gov.au/getattachment/319fe7ad-6136-4daf-b4ce-41a975b53360/Final-determination.aspx>

- how the notice should be presented and ordered to encourage customers to consider their options
- the effectiveness (and expression) of a clear 'call to action', or headline statement, in the notice.

We consider that engaging behavioural insights research in this process will help ensure the aim of the notice is achieved, and customers respond to and engage with the content of the notice.

Timing of implementation

From 1 February 2018, retailers are required to send notices to customers who are on fixed term contracts with benefit periods when their benefit is ending or changing. This notice will only contain basic information as set out in the rules.⁶

When making the final rule, the AEMC considered that a guideline developed by the AER regarding any additional information to be included in the notice, as well as the form and content of the communication, would help to achieve a consistent approach between retailers. It would also allow for a consistent calculation of the relevant amounts that must be included in the notice with our energy price comparator website Energy Made Easy (EME).⁷ Retailers must comply with these additional information requirements in the Guidelines from 1 October 2018.

After considering any submissions received in response to this issues paper, we intend to develop draft Guidelines that we will consult on in accordance with the retail consultation procedure.⁸ This consultation is likely to occur in April 2018.

We will publish the final Guidelines by 1 July 2018.

Relevant rules

The AEMC has made rules 48A and 48B in the Retail Rules to require retailers to notify customers when a benefit provided to them for a minimum or fixed period in their retail contract is ending or changing.

Rule 48B provides us with the power to develop and enforce the Guidelines, which will further expand on the requirements of 48A. Rule 48B is provided at **Appendix 1**.

We must⁹ specify certain information within the Guidelines, including:

- the manner and form in which the notice is to be provided by a retailer
- the information a retailer must include for the customer to be able to use EME to compare available plans with their current contract after the benefit period has ended
- how a retailer must calculate the dollar amounts to be included in the notice, including the consumption of energy at the customer's premises over the relevant period.

We have discretion¹⁰ to specify in the Guidelines:

⁶ The basic information that is required to be included in the notice under Rule 48A includes: the customer's metering identifier, that a benefit change will occur and the benefit change date, EME information, that a customer can request historical billing data and any early termination charges payable under the contract.

⁷ The Energy Made Easy website: <https://www.energymadeeasy.gov.au/>

⁸ The retail consultation procedure is set out in rule 173 of the Retail Rules.

⁹ Rule 48B(2) of the Retail Rules

¹⁰ Rule 48B(3) of the Retail Rules

- what constitutes a 'benefit change' and 'excluded change' for the purposes of triggering a retailer to issue a notice
- the period over which the dollar amounts included in the notice are to be calculated
- whether a retailer should include any other dollar amounts on the notice for comparison purposes – for example, the amount the customer paid for a relevant period when they were receiving the benefit.

We can also require a retailer include any other information we consider necessary for inclusion on the notice.

3. Issues for comment

This section sets out the issues we have identified as requiring further detail in developing the Guidelines.

We are seeking stakeholder comment on five key questions:

- a) Should any benefit changes be excluded from the requirement to send a notice?
- b) Should a historical billing amount or additional comparison figure be included in the benefit change notice?
- c) What approach should be taken with regards to the provision of energy consumption data?
- d) How should information in the benefit change notice be ordered and presented?
- e) What should be the headline statement or 'call to action'?

3.1 Should any benefit changes be excluded from the requirement to send a notice?

Retailers are not required to send a notice to a customer if a benefit is specified as an 'excluded change' in the Guidelines. Retailers are also not required to send a notice if they continue to give customers the same benefit with the same terms and conditions after the end of a fixed benefit period, as there has been no change to the benefit.

We have limited discretion to specify in the Guidelines what constitutes and what does not constitute a 'benefit change'. Under Rule 45A, the AEMC has defined a benefit change as a change to, or the expiry of, a benefit provided to a customer for a minimum period or fixed benefit period under a market retail contract during the term of that contract. Under Rule 48B(3) we can provide further specification in the Guidelines what constitutes a benefit change and an excluded change.

We have undertaken a review of plans in EME and assessed the types of benefits, both financial and non-financial, as well as incentives provided to customers under various market plans. On the basis of this review, we agree with the AEMC's position in its rule determination that the following would not constitute a benefit change:¹¹

1. where a customer's existing benefits are rolled over on the same terms and conditions
2. where a one off physical gift or sign-up credit is provided to a customer on entry into a contract—as this would not meet the definition of a benefit change under Rule 45A(a), and
3. where a standing offer plan on which a benefit is based changes (noting Rule 46, which requires notice of tariff changes, would continue to apply in this case).

Consistent with the AEMC's position, our current view is that a notice should be sent to a customer whenever a benefit changes, irrespective of whether there is a financial detriment or benefit to the customer. We consider there is utility in sending a notice whenever a benefit changes, as it ensures customers are aware of changes to their energy plan (even if they are positive). The notice also provides customers with information to promote the use of EME and may have the effect of encouraging customers to engage in the market.

¹¹ AEMC 2017, Notification of the end of a fixed benefit period, Rule Determination, p. 18.

We are interested in stakeholders' views on whether certain benefit changes should be excluded from the requirement to send a notice and what factors we should consider when forming a position on this issue.

Specific questions for consultation

1. Are there any benefit changes that should be excluded from the requirement to send a notice? Why?
2. Are there other risks or considerations should we be aware of?

3.2 Should a historical billing amount or additional comparison figure be included in the benefit change notice?

We are required in the Guidelines to specify the information a retailer must include in the notice to allow a customer to compare the amount payable after the benefit change with other plans available on EME.¹² By including a projected cost (for ease of reference, we will refer to this amount as the 'do nothing' cost) in the notice, a customer will be aware of the cost of remaining on their existing contract after the benefit change, and can compare the 'do nothing' cost with other plans available on EME.

We must also specify how a retailer must calculate the dollar amounts to be included in the notice. It is important that any information of this nature provided to the customer is consistent with EME calculations and allows customers to easily compare the dollar amounts provided on the notice with the other plans available in the market.

We have discretion to include additional dollar amounts on the notice for comparison purposes. For example, this could include historical billing information that provides customers with the amount they were billed while receiving the benefit.

We consider that the inclusion of an additional dollar amount is likely to increase the effectiveness of the notice by providing customers with an immediate point of reference and comparison. Our preliminary view is that a comparison of two dollar amounts is more effective in encouraging customers to take action, as opposed to a single amount, and a customer will be able to immediately see the financial impact of remaining on a contract after the expiry or change to a benefit. This may further incentivise customers to search for alternative plans on EME. In comparison, a single projected amount may only be effective if the customer takes the additional step of using EME to compare this figure to other available plans.

The AEMC noted there may be utility in including a historical dollar amount in the notice to allow customers to compare how their bill will change on expiry of the relevant benefit period, as this may encourage engagement with the market.¹³ We agree with this view and see value in providing customers an additional dollar amount in addition to the 'do nothing' cost.

We have identified the following options for additional dollar amounts to be included in the notice to customers:

¹² Rule 48B(2)(c) of the Retail Rules.

¹³ AEMC 2017, Notification of the end of a fixed benefit period, Rule Determination, p. 24

1. *Historical billing information* - the amount a customer was billed during the benefit period;¹⁴ or
2. *The value of the benefit* – the overall dollar value of the benefit during the benefit period. This could include comparing this figure with the value of the benefit if the customer takes no action.

We acknowledge there are some potential challenges around the inclusion of additional dollar figures in the notice. As such, we remain open to the view that this may not be an appropriate inclusion in the notice and are interested in stakeholders' views on this subject.

Specific questions for consultation

3. Is including a comparison amount in the notice likely to encourage greater customer engagement with the market? What are the advantages or disadvantages of including an additional comparison amount?
4. What type of comparison amount is likely to be the most effective?
5. What format should a comparison amount be presented in?
 - We welcome any examples and/or case studies of effective comparison amounts from other sectors or jurisdictions, as well as self-generated mock-up samples, to illustrate stakeholders' suggestions.
6. What other risks or considerations should we be aware of?

3.3 What approach should be taken on the provision of energy consumption data?

The Guidelines must specify the information a retailer must include in the notice to enable a customer to use EME to compare plans. In our view, the information provided to customers must include their energy consumption data over the relevant period in order for them to compare plans on EME. We also consider that, where possible, retailers must use historical consumption data to calculate the 'do nothing' cost.

However, we are aware of circumstances where retailers will not have a customer's actual historical energy consumption data. For example, we have identified the following two scenarios:

- *A retailer only has a customer's estimated energy consumption data* – our view is that in this instance a retailer would use estimated consumption figures to calculate estimated bill amounts, but note the amount is based on an estimate.
- *A retailer does not have a customer's energy consumption data* – our view is that in this instance a retailer would use the AER benchmark consumption data to calculate estimated bill amounts, and note the amount is based on an estimate.

We are interested in stakeholders' views on whether they agree with this preliminary approach to the provision of a customer's energy consumption data and whether there are other factors we should consider when forming a position on this issue.

¹⁴ Based on analysis of offers in EME, a 'benefit period' is typically 12-24 months.

Specific questions for consultation

7. Are there any other challenges retailers may encounter in providing consumption data (in addition to those described above)? Are these specific to electricity or gas?
8. How should assumptions underpinning estimated energy consumption data and the AER benchmark consumption data be disclosed?
9. What other risks or considerations should we be aware of?

3.4 How should information in the notice be ordered and presented?

We are required to specify in the Guidelines the manner and form in which the notice is to be provided by the retailer. We are open to adopting a less prescriptive approach to specifying the manner and form of the notice, which would give retailers flexibility in achieving the intent of the notice while complying with the obligations in the Guidelines. This approach acknowledges retailers are in a strong position to communicate with their customers effectively, may better understand their customers' preferences for how information is presented to them, and know how to interact with their customers in a way that suits their needs.

When determining how information should be presented in the notice, we will also consider any findings from our behavioural insights research regarding the inclusion or arrangement of certain information in the notice that is likely to result in positive customer outcomes.

However, we are of the view the Guidelines should prescribe some aspects of the way the information in the notice is presented to customers. For example we are considering whether to prescribe:

- the language and terms used – simple, plain English and some standardised language; and
- the inclusion of a headline statement or 'call to action'.

In addition, our preferred approach is for the Guidelines to stipulate that retailers must provide the notice to customers in a way that aligns with customer preferences. For example, if a customer typically receives their communication from the retailer via email then the notice should be provided in the same manner.

We are interested in stakeholders' views on whether a less prescriptive approach to the manner and form of the notice is preferable and whether there are other factors we should consider when forming a position on this issue.

Specific questions for consultation

10. Do you agree with our proposed approach? What are the benefits of a more prescriptive or less prescriptive approach to the manner and form of the notice?

11. Are there additional elements to those described above that should be prescribed by the Guidelines?

3.5 What should be the headline statement or ‘call to action’?

We are considering whether the notice should contain a prominently displayed headline statement or ‘call to action’. Our preliminary view is a simple and prominently displayed headline statement may provide an effective means for encouraging engagement with the content of the notice. We have not formed a view on the content of the headline statement or whether it should be prescribed. We intend to use behavioural insights research to identify what makes an effective statement from a consumer behaviour perspective.

A trial on the effectiveness of cheaper market offer letters conducted by Ofgem (the energy regulator in Great Britain) included a headline statement in an Ofgem-branded letter that was sent to recipients.¹⁵ The letter contained a prominently displayed and personalised amount that a customer could save by switching energy supplier in the headline statement.

While the Ofgem-branded letter provides a useful example, we intend to test the effectiveness of a headline ‘call to action’ through behavioural economics research. We are also interested in stakeholders’ views on an appropriate headline statement and whether it should be prescribed by the Guidelines.

Specific questions for consultation

12. Is a headline statement or call to action an effective way to prompt meaningful customer engagement with the content of the notice?
13. Are there examples in other industries of effective headline statements or calls to action?
 - We welcome any examples and/or case studies of effective headline statements from other sectors or jurisdictions, as well as self-generated mock-up samples, to illustrate stakeholders’ suggestions.

3.6 Additional considerations

There are a number of supplementary issues on which we seek stakeholder feedback:

- *The method of calculation* - to ensure the ‘do nothing’ cost is calculated in line with estimated costs displayed on EME, retailers will be required to use the EME algorithm to calculate the estimated amount a customer will be charged after expiry of the benefit.

In order to be effective and meaningful, calculations of the amounts in the notice must align with estimated costs on EME as this will allow customers to make an easy comparison with other plans. Our preliminary view is the Guidelines will refer retailers to the EME algorithm located in the retailer-only access area of the EME website.

¹⁵ Ofgem Cheaper Market Offers Letter Trial – Technical Annex – p. 4, https://www.ofgem.gov.uk/system/files/docs/2017/11/cmol_report_technical_annex.pdf

- *Nature of the benefit* – the AER has discretion regarding whether to require the notices include information on the nature of the benefit and how the benefit has changed. We consider there is merit in a short statement explaining the nature of and change to the benefit to assist the customer’s understanding of the benefit they were receiving and what their current situation is in comparison. In addition, they will be able to use this statement to compare against other discounts offered on EME.

Questions for consultation

14. Do stakeholders have comments on these additional considerations?

Appendix 1: National Energy Retail Rule 48B: Benefit change notice guidelines

48B Benefit change notice guidelines

- (1) The AER must make guidelines (benefit change notice guidelines) in accordance with the retail consultation procedure.
- (2) The benefit change notice guidelines must specify:
 - (a) the required form of benefit change notices;
 - (b) the manner in which a benefit change notice is to be provided;
 - (c) the information a retailer must include in the benefit change notice in order to enable a small customer to:
 - (i) use the price comparator to compare offers that are generally available to classes of small customers in their area; and
 - (ii) compare the amounts that would be payable by the customer under its existing market retail contract following the benefit change date with the offers referred to in subrule (c)(i); and
 - (d) how a retailer must calculate the amounts required to be included in a benefit change notice.
- (3) In addition to specifying the matters referred to in subrule (2), the benefit change notice guidelines may specify:
 - (a) what constitutes a benefit change for the purposes of subrule (b) of the definition of “benefit change” in rule 45A; and
 - (b) what constitutes an excluded change;
 - (c) any information a retailer must include in the benefit change notice:
 - (i) with respect to the nature of the benefits provided under the market retail contract during the relevant benefit period;
 - (ii) with respect to the nature of the change to the benefits on the benefit change date;
 - (iii) to enable a small customer to compare the amount billed for their energy consumption during the relevant benefit period with the amounts referred to in subrule (2)(c);
 - (iv) with respect to dual fuel contracts (as defined in rule 117(1)); and

- (v) which the AER considers would be reasonably required by a small customer to assess the energy offers available to it and which is held by the retailer.
- (4) The AER may amend the benefit change notice guidelines in accordance with the retail consultation procedure.